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Human resources management

Practice of the Secretary-General in disciplinary matters and cases of possible criminal behaviour, 1 July 2015 to 30 June 2016

Report of the Secretary-General

Summary

The present report is submitted in response to the request of the General Assembly in paragraph 16 of its resolution 59/287 that Member States be informed on an annual basis about all actions taken in cases of established misconduct and/or criminal behaviour and the disciplinary action and, where appropriate, legal action taken in accordance with the established procedures and regulations. The report covers the period from 1 July 2015 to 30 June 2016.

The General Assembly is invited to take note of the report.

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I. Introduction

1. The present report is submitted in response to the request of the General Assembly in paragraph 16 of its resolution 59/287 that Member States be informed on an annual basis about all actions taken in cases of established misconduct and/or criminal behaviour in accordance with the established procedures and regulations. The report covers the period from 1 July 2015 to 30 June 2016.

2. As requested in paragraph 17 of resolution 59/287, an information circular will be issued so that all staff of the Organization will be informed of the most common examples of misconduct and/or criminal behaviour and their disciplinary consequences, including legal action, with due regard for the protection of the privacy of the staff members concerned.

3. Pursuant to the request made by the Fifth Committee during the resumed seventieth session of the General Assembly, section II below contains an overview of the reports on the practice of the Secretary-General in disciplinary matters submitted to the Assembly at its sixty-ninth and seventieth sessions. A broad overview of the administrative machinery in disciplinary matters is provided in section III so that the information provided in sections IV and V may be understood in context. Section IV contains a summary of the cases of established misconduct during the reporting period. Section V contains comparative data reflecting the disposition of cases completed during the reporting period, including cases that did not result in the imposition of a disciplinary measure, and information about appeals of disciplinary measures imposed since 1 July 2009. Section V also provides comparative data on the number and nature of cases referred to the Office of Human Resources Management for action during the reporting period. Section VI provides information on the practice of the Secretary-General in cases of possible criminal behaviour.

II. Overview of the reports on the practice of the Secretary-General in disciplinary matters submitted to the General Assembly at its sixty-ninth and seventieth session

4. During the sixty-ninth and seventieth sessions of the General Assembly, the Secretary-General submitted two reports on the subject, covering the 1 July 2013 to 30 June 2014 reporting period (A/69/283) and the 1 July 2014 to 30 June 2015 reporting period (A/70/253). During the 2013/14 and 2014/15 reporting periods, the most common types of misconduct for which sanctions were applied were theft, misappropriation, misrepresentation, false certification and misuse of United Nations property. During the 2014/15 reporting period, there were more cases of assault and abusive conduct than during the 2013/14 reporting period. Also during the 2014/15 reporting period, there were a number of cases involving inappropriate or disruptive behaviour, mostly attributable to a staff protest that took place in a peacekeeping mission. More than 30 additional cases were completed during the 2014/15 reporting period (148 cases), compared with the 2013/14 reporting period (115 cases). It is considered that this, at least in part, stemmed from a number of "group" cases that could be dealt with en bloc. The number of challenges to imposed disciplinary measures rose from two to seven. The higher number of challenges is considered to be unremarkable. The number of challenges during the

2013/14 reporting period, namely, two, should be viewed as extremely low. The number of cases received by the Office of Human Resources Management remained steady during both the 2013/14 (140 cases) and 2014/15 (143 cases) reporting periods. The number of cases referred to national authorities with respect to possible criminal behaviour remained fairly steady, at 11 during the 2013/14 reporting period and 8 during the 2014/15 reporting period.

5. A comparative analysis together with trends for the past five reporting periods, including 2013/14 and 2014/15, is set out in section V.

III. Overview of the administrative machinery with respect to disciplinary matters

A. Legislative framework governing the conduct of staff members[1]

6. Article 101, paragraph 3, of the Charter of the United Nations states that the "paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity".

7. Article I of the Staff Regulations and chapter I of the Staff Rules, both entitled "Duties, obligations and privileges", set out the basic values expected of international civil servants because of their status, as well as particular manifestations of such basic values (see, in particular, staff regulation 1.2 and staff rule 1.2).

B. Misconduct

8. Staff regulation 10.1 (a) provides that "the Secretary-General may impose disciplinary measures on staff members who engage in misconduct". Staff rule 10.1 (a) provides that the "failure by a staff member to comply with his or her obligations under the Charter of the United Nations, the Staff Regulations and Staff Rules or other relevant administrative issuances or to observe the standards of conduct expected of an international civil servant may amount to misconduct and may lead to the institution of a disciplinary process and the imposition of disciplinary measures for misconduct". Additionally, staff rule 10.1 (c) provides that "the decision to launch an investigation into allegations of misconduct, to institute a disciplinary process and to impose a disciplinary measure shall be within the discretionary authority of the Secretary-General or officials with delegated authority". Within those parameters, the Secretary-General has broad discretion in determining what constitutes misconduct and in imposing disciplinary measures. The administrative instruction on revised disciplinary measures and procedures (ST/AI/371/Amend.1)[2] provides further examples of conduct for which disciplinary

[1] Provisions relating to the status, rights and duties of staff members, and to disciplinary matters, can be found in the electronic version of the Human Resources Handbook (available at https://hr.un.org/handbook) under the categories "Duties, obligations and privileges" and "Administration of justice and disciplinary matters".

[2] See also the Secretary-General's bulletin on the prohibition of discrimination, harassment, including sexual harassment, and abuse of authority (ST/SGB/2008/5).

measures may be imposed. A new administrative instruction on investigations and the disciplinary process was discussed at the annual meeting of the Staff-Management Committee, held in April 2016, and sent for broader consultation in June 2016. It is currently anticipated that a new policy will be promulgated during the second half of 2016.

C. Procedural fairness

9. Where the head of office or other responsible officer believes, following an investigation, that misconduct may have occurred, he or she refers the matter to the Assistant Secretary-General for Human Resources Management for a decision on whether to pursue the matter as a disciplinary case. Depending on the subject matter and complexity of the report of misconduct, the investigation may have been undertaken by the head of office or his or her designees, or by the Office of Internal Oversight Services, at its own initiative or at the request of a head of office.

10. If the Assistant Secretary-General for Human Resources Management decides to pursue the matter and thereby initiates the disciplinary process, the staff member is notified in writing of the allegations of misconduct and is informed of his or her opportunity to comment on the allegations and of the right to seek the assistance of counsel in his or her defence through the Office of Staff Legal Assistance or from outside counsel at his or her own expense. The staff member is given a reasonable opportunity to respond to the allegations of misconduct. In the light of the comments provided by the staff member, the Assistant Secretary-General decides whether to close the case, with or without administrative action, or to recommend the imposition of one or more disciplinary measures. In the latter case, the Under-Secretary-General for Management decides whether to impose one or more of the disciplinary measures provided for in staff rule 10.2 (a). In some cases, the first step taken with respect to a matter referred to the Office of Human Resources Management is not to initiate the disciplinary process but rather to request the staff member to provide comments. The request for comments is made in compliance with staff rule 10.2 (c) if the issuance of a reprimand is being contemplated and to assist the Office in deciding whether to initiate the disciplinary process.

11. Staff rule 10.4 (a) provides that, at any time after a report of possible misconduct, pending an investigation until the completion of the disciplinary process, a staff member may be placed on administrative leave by the appropriate official.[3]

[3] In January 2013, the Assistant Secretary-General for Human Resources Management delegated to the Under-Secretary-General for Field Support, on a pilot basis, the authority to place field mission staff members on administrative leave with pay. The delegation of authority on a pilot basis was reconfirmed in September 2014. Guidelines for placement of staff on administrative leave with pay pending investigation and under the disciplinary process can be found in the Human Resources Handbook (https://hr.un.org/handbook), under the category "Administration of justice and disciplinary matters". The draft administrative instruction on investigations and the disciplinary process (see para. 8 above), which is anticipated to be promulgated during the second half of 2016, will reflect this delegation of authority. A management working group will further discuss the delegation of authority to the Under-Secretary-General for Field Support for field staff, as envisaged in annex VII to the report of the Secretary-General on the administration of justice at the United Nations (A/68/346).

12. In accordance with staff rule 10.3 (c), a staff member against whom a disciplinary measure has been imposed may submit an application to the United Nations Dispute Tribunal challenging the imposition of the measure in accordance with Chapter XI of the Staff Rules.[4]

D. Disciplinary measures

13. Staff rule 10.2 (a) provides that disciplinary measures may take one or more of the following forms (i.e. more than one measure may be imposed in each case):

(a) Written censure;

(b) Loss of one or more steps in grade;

(c) Deferment, for a specified period, of eligibility for salary increment;

(d) Suspension without pay for a specified period;

(e) Fine;

(f) Deferment, for a specified period, of eligibility for consideration for promotion;

(g) Demotion, with deferment, for a specified period, of eligibility for consideration for promotion;

(h) Separation from service, with notice or compensation in lieu of notice, and with or without termination indemnity;

(i) Dismissal.

14. In determining the appropriate measure, each case is decided on its own merits, taking into account the particulars of the case, including aggravating and mitigating circumstances. Additionally, in accordance with staff rule 10.3 (b), disciplinary measures imposed must be proportionate to the nature and gravity of the misconduct involved. Given the thoroughness of the review involved to assess the unique facts and features of each case, the specific sanction that applies to a specific type of misconduct cannot be determined in advance or applied across the board.

E. Other measures

15. Written or oral reprimands, recovery of moneys owed to the Organization and administrative leave with or without pay are not considered disciplinary measures. Reprimands are administrative measures that are important for upholding standards of proper conduct and promoting accountability. Warnings or letters of caution are managerial measures directed at fostering awareness of the proper standards of conduct. In addition, where conduct that may amount to misconduct has an impact on performance, the issue may be addressed in the context of performance management. This may include training, counselling, the non-renewal of a contract or the termination of an appointment.

[4] Judgments of the United Nations Dispute and Appeals Tribunals relating to disciplinary cases can be found on the website of the Office of the Administration of Justice (www.un.org/en/oaj).

IV. Summary of cases in which disciplinary measures were imposed during the period from 1 July 2015 to 30 June 2016[1]

16. For each case that led to the imposition of one or more disciplinary measures, a summary is provided below indicating the nature of the misconduct and the disciplinary measure or measures imposed by the Secretary-General. The functional title of the staff members or other particulars relating thereto are provided only when they played a role in determining the measures to be taken. Conduct issues that were dealt with by means other than disciplinary measures are not listed.

17. As noted above, both aggravating and mitigating circumstances may be taken into account in determining a sanction, and these vary according to the unique facts and circumstances of a case. Examples of possible aggravating circumstances are the repetition of acts of misconduct, the intent to derive personal benefit and the degree of harm resulting from the misconduct. Examples of possible mitigating circumstances are sincere remorse and the voluntary disclosure of the acts of misconduct early in the process.

18. Not every case brought to the attention of the Secretary-General indicating possible misconduct results in disciplinary or other measures being taken. When a review by the Office of Human Resources Management reveals that there is insufficient evidence to pursue a matter as a disciplinary case, or when a staff member provides a satisfactory explanation in response to the formal allegations of misconduct, the case is closed. Cases will also typically be closed when a staff member retires or otherwise separates from the Organization before an investigation or the disciplinary process is concluded, unless continuation is in the interest of the Organization. In the vast majority of cases involving former staff members, a record is made and placed in the former staff member's official status file so that the matter can be further considered if and when the staff member rejoins the Organization. In this regard, section 3.9 of the administrative instruction on the administration of fixed-term appointments (ST/AI/2013/1) provides that a former staff member "will be ineligible for re-employment following ... resignation during an investigation of misconduct or institution of a disciplinary process, unless the former staff member agrees to cooperate with an ongoing investigation or disciplinary process until its conclusion". Where relevant, this provision is noted in records placed in official status files.

19. In paragraph 23 of its resolution 68/252, the General Assembly requested the Secretary-General to take appropriate measures to mitigate and recoup any losses arising from misconduct by staff members and to report thereon. As the summaries of the cases below indicate, in the majority of the cases where there was a quantifiable loss to the Organization, the Organization either recovered the relevant property and/or funds or the staff member repaid the funds at issue. The recovery of financial losses to the Organization is currently being effected under staff rule 10.1 (b), which provides that where conduct is determined by the Secretary-General to constitute misconduct and the Organization has suffered a financial loss as a result of the staff member's actions, which are also determined to be wilful, reckless or grossly negligent, such staff member may be required to reimburse the Organization for such loss in whole or in part. One of the proposed changes to the administrative

[1] Information contained in the summaries is correct as at the date of submission of the present report.

instruction on investigations and disciplinary matters (see para. 8 above) is to elaborate on the procedures for recovery of losses to the Organization resulting from established misconduct, thereby enhancing the legal framework to effect recovery.

A. Abuse of authority, harassment and discrimination

20. A staff member was found to have engaged in conduct that constituted harassment. *Disposition*: censure. *Appeal*: none.

B. Theft and misappropriation

21. A staff member participated in the taking, without authorization, of two sea containers that contained prefabricated building modules. *Disposition*: dismissal. *Appeal*: none.

22. A staff member performing security functions took, without authorization, a bottle of wine belonging to a third party that had been entrusted to security staff for safekeeping. *Disposition*: dismissal. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

23. A staff member participated in the taking, without authorization, of 96 sheets of corrugated metal belonging to the Organization. There were mitigating circumstances, including the staff member's early admission of the conduct. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. Recovery of $260.30 was made from the staff member. *Appeal*: none.

24. A staff member attempted to remove, without authorization, a generator part belonging to the Organization from a United Nations compound. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

25. A staff member took, without authorization, fuel belonging to the Organization and failed to report that other staff members also took fuel belonging to the Organization. There were mitigating circumstances, including the staff member's early admission of the conduct. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. An amount equivalent to the value of 1,400 litres of fuel was recovered from the staff member. *Appeal*: none.

26. A staff member took, without authorization, construction material belonging to the Organization. There were mitigating circumstances, including a partial return of the United Nations property. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

27. Two staff members participated in the taking, without authorization, of electrical cable belonging to the Organization. There were mitigating circumstances, including the staff members' early admission of the conduct. *Dispositions*: separations from service, with compensation in lieu of notices and without termination indemnities. A sum equivalent to the value of 91 metres of electrical cable ($1,691.69) was recovered from the staff members. *Appeals*: none.

28. A staff member performing security functions participated in an attempt to take, without authorization, building materials belonging to the Organization and was reckless or grossly negligent in the execution of duties. *Disposition*: dismissal. *Appeal*: the time for appeal of the disciplinary measure has not expired.

29. A staff member participated in the unauthorized taking of mattresses that belonged to the Organization. There were mitigating circumstances, including the staff member's early admission of the conduct. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired.

30. A staff member knowingly failed to follow instructions relating to the security of United Nations vehicles. *Disposition*: written censure and recovery of $1,828.35, which is a sum equivalent to 25 per cent of the financial loss suffered by the Organization. *Appeal*: none.

31. A staff member facilitated the sale of refrigeration units that were taken, without authorization, from the Organization and received payment for assistance with locating a buyer. There were mitigating circumstances, including the staff member's early admission of the conduct. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: the time for appeal of the disciplinary measures has not expired.

32. A staff member performing security functions took, without authorization, rolls of concertina wire belonging to the Organization for the staff member's personal use. The rolls of concertina wire were recovered. *Disposition*: dismissal *Appeal*: the time for appeal of the disciplinary measure has not expired.

33. Two staff members took, without authorization, 10 refrigeration units belonging to the Organization and arranged to sell some of those units. *Dispositions*: dismissals. *Appeals*: the time for appeal of the disciplinary measures has not expired.

C. Misrepresentation and false certification

34. A staff member falsely reported, in a job application to the Organization, the familial relationship of the staff member with another existing staff member. There were mitigating circumstances, including remorse. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

35. A staff member took a written test as a candidate for a vacancy, which the same staff member was charged with administering, with prior knowledge of the contents of the test acquired by having received a copy of it in advance. *Disposition*: demotion by one grade with deferment, for two years, of eligibility for consideration for promotion. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

36. A staff member sent a test to another staff member, in anticipation that the receiving staff member would review it prior to taking an examination for a recruitment exercise. *Disposition*: fine of one month's net base salary and written censure. *Appeal*: none.

37. A staff member received and reviewed a copy of an essay question prior to sitting for an examination that contained the same question and subsequently distributed the same essay question further to two staff members. There were mitigating circumstances, including the staff member's early admission of the conduct. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: filed with the Dispute Tribunal and dismissed; appeal by the former staff member to the Appeals Tribunal, where the case remains under consideration.

38. A staff member offered to assist a person external to the Organization with securing United Nations employment in exchange for money. There were mitigating circumstances, including the staff member's early admission of the conduct. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity, and fine in an amount equivalent to one month's net base salary. *Appeal*: none.

39. A staff member performing security functions misled an individual regarding assistance the staff member could provide in purchasing a vehicle through United Nations channels. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

40. A staff member submitted insurance claims that contained false information. There were mitigating circumstances, including the staff member's early admission of the conduct. No moneys were paid to the staff member with respect to the claims. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

41. A staff member falsely represented himself to prospective buyers of vehicles being sold by the Organization as being a legitimate intermediary. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

42. A staff member submitted insurance claims that contained false information. There were mitigating circumstances, including the staff member's length of service. No moneys were paid to the staff member with respect to the claims. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

43. A staff member submitted one or more education grant claims that contained false, misleading, and/or inaccurate and/or incorrect information, signatures and/or stamps. The amount that the staff member received in excess of the staff member's entitlement was recovered by being offset against the staff member's legitimate education grant claims. *Disposition*: dismissal. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

44. A staff member falsified education grant forms by imprinting a forged stamp on the forms and affixing a forged signature. There were mitigating circumstances, including that the amount claimed by the staff member was less than he would otherwise have been entitled to receive. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

45. A staff member falsely stated the staff member's educational qualifications in a job application to the Organization and provided a falsified diploma. *Disposition*:

separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

46. A staff member submitted insurance claims that contained false information. The sum of $3,663, representing the amount of the false claims, will be recovered from the staff member's final entitlements. *Disposition*: dismissal. *Appeal*: none.

47. In job applications to the Organization, a staff member made a false declaration as to the staff member's educational qualifications. There were mitigating circumstances, including the staff member's early admission of the conduct. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

48. A staff member performing finance assistant functions used the staff member's office for private gain to solicit a loan from a bank and made a false declaration on a job application to the Organization by stating that the staff member had never been arrested. The fact that the arrest related to an investigation completed more than 10 years ago and subsequently closed was considered a mitigating circumstance. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: none.

49. A staff member submitted documentation that contained false information, provided by the staff member's spouse, in support of a claim relating to medical services purportedly received by the staff member's dependents. The evidence indicated that the staff member was unaware of the false information and had no reason to suspect that the information was false. No moneys were paid to the staff member with respect to the claims. *Disposition*: loss of two steps in grade and written censure. *Appeal*: none.

50. A staff member misrepresented the staff member's educational qualifications and work experience on a job application to the Organization. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired.

51. A staff member copied portions of a personal history profile belonging to another staff member and submitted the resulting profile as the staff member's own. The personal history profile appeared to be reflective of the staff member's actual experience. Disposition: loss of two steps in grade and written censure. Appeal: the time for appeal of the disciplinary measure has not expired.

52. A staff member acted as an intermediary in the improper receipt of money in exchange for the promise of employment with the Organization from an individual contractor. The secondary role played by the staff member was considered a mitigating circumstance. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

53. A staff member created, without authorization, the staff member's attendance reports for three months and forged the signatures of other staff members in the reports before then submitting them. There were mitigating circumstances, including the staff member's long service with the Organization. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired.

D. Unauthorized outside activities

54. Without the approval of the Secretary-General, a staff member disseminated business information relating to the lunch delivery business of the staff member's siblings to potential customers within the United Nations community using the staff member's United Nations e-mail account and permitted the staff member's domestic employee to deliver the ordered lunches. *Disposition*: loss of two steps in grade and written censure. *Appeal*: the time for appeal of the disciplinary measure has not expired.

55. A staff member provided interpretation and translation services for one or more non-United Nations organizations in exchange for remuneration without the authorization of the Secretary-General. There were mitigating circumstances, including the staff member's long service with the Organization. *Disposition*: loss of two steps in grade, fine equivalent to two months' net base salary and written censure. *Appeal*: the time for appeal of the disciplinary measure has not expired.

56. A staff member became a candidate for political office in national elections, without authorization. The staff member had been previously cautioned against engaging in such conduct and agreed not to become a candidate. The fact that the staff member breached the agreement, demonstrating a clear disregard for the Staff Regulations and Rules of the Organization, operated as an aggravating circumstance. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired

57. A staff member was employed by a quasi-governmental organization while concurrently being employed by the United Nations, without the authorization of the Secretary-General. *Disposition*: loss of two steps in grade, deferment, for two years, of eligibility for consideration for promotion and written censure. *Appeal*: the time for appeal of the disciplinary measure has not expired.

E. Assault and abusive conduct

58. A staff member verbally abused and physically assaulted a non-staff member at the entrance of a United Nations compound. That the incident took place while the victim was exercising security guard functions was considered an aggravating circumstance. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

59. A staff member physically assaulted a third party, resulting in the person's hospitalization. *Disposition*: dismissal. *Appeal*: the time for appeal of the disciplinary measure has not expired.

60. A staff member, while off duty, assaulted and injured with a knife a non-staff member in violation of local law. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired.

61. A staff member verbally abused and threw a large rock at another staff member and the staff member's supervisor and later that day pushed the supervisor. The staff member also used a key to self-inflict facial injuries and claimed that the

supervisor had caused them. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired.

62. Two staff members engaged in a physical altercation with each other. The staff members' years of service to the Organization were found to constitute mitigating circumstances. *Dispositions*: separations from service, with compensation in lieu of notices and without termination indemnities. *Appeals*: the time for appeal of the disciplinary measures has not expired.

63. A staff member drove a United Nations shuttle bus under the influence of alcohol and physically assaulted another staff member. There were mitigating circumstances, including the staff member's early admission of the conduct. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

64. A staff member physically assaulted a woman who was a United Nations Volunteer and with whom the staff member had had a romantic relationship. The substantial amount of time that had passed since the incident had occurred was viewed as a mitigating circumstance. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired

65. A staff member physically assaulted another staff member by hitting him in the face. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired.

66. A staff member threatened to damage personal property belonging to another individual inside a recreational facility of the Organization. *Disposition*: loss of two steps in grade and written censure. *Appeal*: the time for appeal of the disciplinary measure has not expired.

67. A staff member physically assaulted another staff member. There were mitigating circumstances, including the physical response of the other staff member. *Disposition*: separation from service. with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired.

F. Violation of local laws

68. A staff member possessed ivory bangles, in violation of local laws. *Disposition*: deferment, for one year, of eligibility for salary increment and written censure. *Appeal*: none.

69. A judgment was issued against a staff member in which it was determined that the staff member had received stolen property, in contravention of local laws. *Disposition*: dismissal. *Appeal*: none.

G. Failure to honour private obligations

70. A staff member failed to honour the staff member's private legal obligations as set out in a judgment ordering the staff member to pay child support. The staff

member's failure to acknowledge the debt, despite a judgment against the staff member, and the staff member's failure to make any attempt to settle the matter operated as aggravating circumstances. *Disposition*: deferment, for one year, of eligibility for salary increment and written censure. The staff member was also instructed to report regularly on steps taken to meet the staff member's private legal obligation. A portion of the staff member's emoluments was also withheld, pursuant to the Secretary-General's bulletin on family and child support obligations of staff members (ST/SGB/1999/4). *Appeal*: none.

H. Sexual exploitation and abuse

71. A staff member used the staff member's official laptop to access pornographic material. In addition, the staff member used the services of prostitutes. There were mitigating circumstances, including the length of time that had elapsed since the conduct came to light. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

72. A staff member engaged in sexual intercourse with two minors, in violation of the criminal laws of a Member State relating to sexual abuse, rape, attempted sexual assault and attempted facilitation of prostitution. *Disposition*: dismissal and fine equivalent to three months' net base salary. *Appeal*: sanction upheld by the Dispute Tribunal (UNDT/2016/086).

73. A staff member solicited money from and/or engaged in the sexual harassment and/or attempted sexual exploitation and abuse of persons who were either attempting to gain employment with the Organization or were working as independent contractors under the staff member's supervision. *Disposition*: dismissal. *Appeal*: none.

I. Misuse of United Nations property and assets

74. A staff member used a United Nations vehicle without authorization and verbally threatened another staff member. *Disposition*: loss of two steps in grade and censure. *Appeal*: none.

75. A staff member used United Nations property and assets for unofficial purposes to facilitate the staff member's engagement in outside activities. *Disposition*: loss of two steps in grade and written censure. *Appeal*: none.

76. A staff member worked, without authorization, as a designer for individuals, using the staff member's United Nations computer and e-mail account, and received remuneration from some of the individuals. *Disposition*: loss of one step in grade and written censure. *Appeal*: none.

77. A security officer left a firearm and ammunition unattended in a United Nations vehicle and the items were stolen. Leaving the firearm and ammunition in such circumstances directly contradicted the standard operating procedures relating to firearms. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: filed with the Dispute Tribunal, where the case remains under consideration.

78. A staff member allowed a non-staff member to access the Organization's information and communications technology resources available to the staff member. *Disposition*: loss of two steps in grade and written censure. *Appeal*: the time for appeal of the disciplinary measures has not expired.

J. Other

79. A staff member sought and received payment from individual contractors in exchange for their employment, continued employment or prospective employment with a mission. There were mitigating circumstances, including the substantial amount of time that had elapsed since the matter had come to light. *Disposition*: separation from service, with compensation in lieu of notice and with termination indemnity. *Appeal*: none.

80. Two staff members performing security functions who were posted at an exit gate failed to search the contents of a United Nations vehicle, in violation of their duties, which resulted in the unauthorized removal of mattresses belonging to the Organization. *Dispositions*: demotions of one grade with deferment, for two years, of eligibility for consideration for promotions. *Appeals*: the time for appeal of the disciplinary measures has not expired.

81. A staff member failed to disclose the staff member's marital relationship with a candidate for employment within the Organization. The staff member sat on the interview panel and made recommendations with respect to that candidate. *Disposition*: demotion of one grade, deferment, for two years, of eligibility for consideration for promotion and fine of three months' net base salary. *Appeal*: the time for appeal of the disciplinary measures has not expired.

82. A staff member drove a United Nations vehicle and carried the staff member's service weapon while under the influence of alcohol. The involvement of local authorities and the fact that the staff member's conduct was in contravention of the staff member's core duties as a security guard operated as aggravating circumstances. *Disposition*: separation from service, with compensation in lieu of notice and without termination indemnity. *Appeal*: the time for appeal of the disciplinary measure has not expired.

V. Data on cases received and completed during the reporting period

A. Cases completed during the reporting period

83. The tables in the present section provide information on the number and disposition of cases completed during the reporting period, including those that did not result in the imposition of a disciplinary measure. Information is also provided about appeals to the Dispute and Appeals Tribunals of disciplinary measures imposed since 1 July 2009.

84. Generally, the length of time for completion of the disciplinary process varies depending on the complexity of the matter and the volume of evidence. During the reporting period, a number of factors have continued to affect the rate of processing of disciplinary cases, including, as previously reported, the jurisprudence from the

Dispute and Appeals Tribunals with regard to the standard of proof and the reliability of witness statements.[6] In this regard, because of the strict standards imposed by the Tribunals, the Office of Human Resources Management is required to perform increasingly detailed analyses and to scrutinize every aspect of each case. There is frequently a need for clarifications and/or further investigation after referral of a matter to the Office. This need for further input from investigating entities has added significantly to the time needed to process referred matters.

85. The time taken to process a case also includes the time needed for the staff member concerned to respond to the allegations of misconduct and any further relevant information received by the Office of Human Resources Management during the disciplinary process,[7] which can be lengthy given that the staff member may request extensions in order to consult counsel. After responses are received from staff members, it is often necessary to seek further clarifications and/or evidence from the investigating entity and to then again obtain the staff member's comments on the additional information received.[8]

86. It should be noted that the tables reflect cases completed during the reporting period that were referred to the Office of Human Resources Management both prior to and during the reporting period. The average time taken during the reporting period to dispose of cases after their referral to the Office was 8.6 months. There was only a slight increase in the time spent for the Office to dispose of cases during the reporting period compared with the previous period (8.4 months). The length of time taken is the result of a number of factors, including the time spent on other duties, such as working on matters relating to reports of discrimination, harassment, including sexual harassment, and abuse of authority and requests for advice from other client offices, the time taken by investigating entities to respond to requests for further supporting information and requests from staff members and the Office of Staff Legal Assistance for extensions of time to respond to communications from the Office of Human Resources Management.

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[6] In particular, the decision of the Appeals Tribunal in *Molari* (2011-UNAT-164), which provided that the standard of proof in disciplinary cases that could result in a termination is "clear and convincing evidence", has often resulted in the need for the Office of Human Resources Management to request further input from investigating entities after the initial referral of the matter. It is also noted that in the Dispute Tribunal judgment in *Applicant* (UNDT/2013/086), the "clear and convincing" standard of proof was also applied to the analysis of the evidence in a challenge to a sanction of demotion.

[7] The time taken to process cases during the reporting period was further lengthened by the Appeals Tribunal's decisions holding that, with respect to the cases under consideration by the Tribunal, the disciplinary measures imposed on staff members were illegal because the witness statements obtained during the respective investigations did not have sufficient "indicia of reliability" or were otherwise questionable. For example, in *Nyambuza*, the witness statements were rendered in French (the language of the witnesses), but the attestations as to truthfulness were in English. As a result of these judgments, the processing of certain disciplinary cases was halted mid-process given that witnesses had to be found and new statements obtained. This added more time to the processing of the cases.

[8] The requirement that additional information be provided to the staff member for comment was confirmed by the Dispute and Appeals Tribunals in *Israbhakdi* (UNDT/2012/010 and 2012-UNAT-277).

Table 1
Disposition of cases completed between 1 July 2015 and 30 June 2016

Disposition	*Number*
Dismissal	12
Separation from service, with notice or compensation in lieu of notice and with or without termination indemnity	38[a]
Other disciplinary measures	19
Administrative measures	5
Closed with no measure	11
Not pursued as a disciplinary matter	12
Separation of the staff member prior to or after referral of the case to the Office of Human Resources Management prior to the completion of a disciplinary process	44
Other	2
Total	**143**

[a] With respect to two staff members, the imposition of one disciplinary measure closed two cases. Therefore, 38 cases were closed after the imposition on 36 staff members of the sanction of separation from service, with compensation in lieu of notice and without termination indemnity.

87. During the period covered by the present report, 12 out of 143 cases, or 8.3 per cent of the cases completed, were not pursued as disciplinary matters. In the four prior reporting periods, ending 30 June 2012, 2013, 2014 and 2015, the corresponding percentages were 25 per cent, 27 per cent, 20 per cent and 15 per cent, respectively. The reason for a given case not being pursued as a disciplinary matter is specific to the facts and circumstances of the case. It is thought that the greater awareness by investigating entities of the *Molari* judgment (2011-UNAT-164), which provided that facts supporting a disciplinary measure that could result in termination must be established by clear and convincing evidence, has led to investigations being more thorough and investigating entities being more responsive to requests for further supporting information from the Office of Human Resources Management. This, in turn, has led to a continuing increase in the number of cases being pursued compared with three years ago.

Table 2
Cases completed in the current and past four reporting periods

Period	*Number*
1 July 2015 to 30 June 2016	143
1 July 2014 to 30 June 2015	148
1 July 2013 to 30 June 2014	115
1 July 2012 to 30 June 2013	115
1 July 2011 to 30 June 2012	155

88. The number of cases completed during the period covered by the present report is comparable to the number of cases completed during the previous reporting period. During the present reporting period, 67 disciplinary measures were imposed.[9] In the four prior reporting periods, ending 30 June 2015, 2014, 2013 and 2012, 64 disciplinary measures, 39 disciplinary measures, 43 disciplinary measures and 49 disciplinary measures were imposed, respectively. It is thought that the continued increase in the number of disciplinary measures imposed when compared with the number imposed in the two-year period ending 30 June 2014 may be the result of the increasing responsiveness of investigating entities to the requests from the Office of Human Resources Management for further input and the improved quality of investigation reports.

89. With regard to issues concerning the workload of the Office of Human Resources Management, it may be recalled that, in addition to its role in acting on cases referred for possible disciplinary action, the Office also has a role under the Secretary-General's bulletin on the prohibition of discrimination, harassment, including sexual harassment, and abuse of authority (ST/SGB/2008/5) in connection with cases involving complaints against the most senior-level staff. In this regard, the Office provides recommendations on whether to initiate an investigation and, where relevant, reviews the completed investigation report and provides reasoned, written outcomes to complainants and alleged offenders. In addition, the Office routinely provides advice to other offices on the handling of complaints under that bulletin and responds to challenges before the Dispute Tribunal in respect of cases referred under that bulletin at various stages of handling (i.e., during and after investigations). The Office also has a role in monitoring the progress of matters submitted under that bulletin (see sections 5.11 and 6 of ST/SGB/2008/5). Given the complexity and sensitivity of such cases, the Office's involvement in these matters tends to be exceptionally resource intensive. In addition, the Office has provided recommendations to the Under-Secretary-General for Management with respect to terminations for facts anterior involving disciplinary matters in other United Nations entities, which did not require the initiation of a disciplinary process but involved a more limited review process.

B. Appeals against disciplinary measures

90. Once a completed case has resulted in the imposition of a disciplinary measure, the staff member may challenge that decision before the Dispute Tribunal. It is noted that a relatively small percentage of disciplinary measures have been appealed since 1 July 2009.[10] In the reporting periods since 1 July 2009, the percentage of disciplinary measures imposed that have been the subject of appeals during each such period is 26 per cent, 16 per cent, 16 per cent, 11 per cent, 5 per

[9] This number reflects closures of 69 cases because with respect to two staff members, 2 cases were closed with the imposition of one disciplinary measure.

[10] During the past seven years, the Dispute and Appeals Tribunals have considered the appeals of both disciplinary measures imposed prior to 1 July 2009 under the previous system of justice and measures imposed after 1 July 2009. The tables in the present section do not contain information about the appeals or outcomes of disciplinary measures imposed prior to the introduction of the new system of justice.

cent,[11] 11 per cent and 16 per cent,[12] respectively. There has been an increase in the number of appeals filed during the reporting period covered by the present report, but the number remains largely in line with the numbers reported in previous reporting periods.

Table 3

Appeals contesting disciplinary measures imposed between 1 July 2009 and 30 June 2016

Period	*Number*	*Percentage*
1 July 2015 to 30 June 2016	11	16
1 July 2014 to 30 June 2015	7	11
1 July 2013 to 30 June 2014	2	5
1 July 2012 to 30 June 2013	5	11
1 July 2011 to 30 June 2012	7	16
1 July 2010 to 30 June 2011	16	16
1 July 2009 to 30 June 2010	8	26

91. The number of Dispute Tribunal and Appeals Tribunal judgments on disciplinary sanctions in the Secretariat imposed after 1 July 2009 is relatively small, with only a few emerging trends discernible from the jurisprudence, namely, considerable scrutiny of whether the facts on which disciplinary measures are based are established at the requisite standard and considerable support for respecting the discretion of the Secretary-General in deciding on the proportionality of the sanction imposed. Table 4 provides information about the overall outcome of cases before the Dispute and Appeals Tribunals for the period from 1 July 2009 to date.

[11] The figure reported in the previous report (A/70/253) included 29 cases for which the time for appeal had not expired as at the time of submission of that report. Upon expiration of that time period, no additional disciplinary measures were challenged. Accordingly, the percentage of appeals of disciplinary measures imposed during the previous reporting period stood at 11 per cent.

[12] During the period from 1 July 2015 to 30 June 2016, of the 67 cases for which a disciplinary measure had been imposed and the time period for filing an appeal had expired, staff members in 11 cases had appealed the sanction. Disciplinary measures have been imposed in 25 cases for which the time period to file an appeal had not expired as at the date of submission of the present report.

Table 4

Disposition of the appeals contesting disciplinary measures imposed between 1 July 2009 and 30 June 2016

Disposition	*Number*	*Percentage*
Win by the respondent and cases withdrawn by staff member at the Dispute or Appeals Tribunal[a]	31	76
Settled	7	17
Overall loss by respondent[b]	3	7
Total	**41**	**100**
Staff member's appeal pending at Dispute or Appeals Tribunal or time for appeal to the Appeals Tribunal has not expired	16	

[a] This number includes cases in which: respondent prevailed at Dispute Tribunal and no appeal by staff member to the Appeals Tribunal; respondent prevailed at Dispute Tribunal and Appeals Tribunal; staff member prevailed at Dispute Tribunal but respondent prevailed at Appeals Tribunal; and staff member appeal to Dispute Tribunal withdrawn.

[b] The number includes cases in which: respondent prevailed at Dispute Tribunal but staff member prevailed at Appeals Tribunal; and staff member prevailed at Dispute Tribunal and no appeal filed by respondent to the Appeals Tribunal.

C. Cases received by the Office of Human Resources Management

92. The tables in the present section provide information on the number and types of cases referred to the Office of Human Resources Management for possible disciplinary action during the period covered by the present report, as well as the number of cases received over the previous four reporting periods.

93. The number of cases received during the reporting period shows a slight decrease compared with the previous two periods but is largely in line with the number of cases referred in previous reporting periods.

Table 5

Cases received by the Office of Human Resources Management during the current and past four reporting periods

Period	*Number*
1 July 2015 to 30 June 2016	130
1 July 2014 to 30 June 2015	143
1 July 2013 to 30 June 2014	140
1 July 2012 to 30 June 2013	131
1 July 2011 to 30 June 2012	95

94. The proportion of cases concerning field staff received during the present period is 68 per cent. In the four previous reporting periods, the corresponding percentages were 84 per cent, 51 per cent, 63 per cent and 72 per cent. The percentage of cases originating in field missions is broadly in line with previous

reporting periods, with the exception of the reporting period immediately preceding the present one.

Table 6
Source of cases received by the Office of Human Resources Management between 1 July 2015 and 30 June 2016

Source	*Number*	*Percentage*
Cases relating to staff based at United Nations Headquarters and offices away from Headquarters	41	32
Cases relating to field staff	89	68
Total	**130**	**100**

Table 7
Cases received between 1 July 2015 and 30 June 2016, by type of misconduct[a]

Type of misconduct	*Number*
Abuse of authority/harassment/discrimination	19
Assault (verbal and physical)	17
Misrepresentation and false certification	24
Failure to report	3
Inappropriate or disruptive behaviour	8
Misuse of United Nations property or assets	1
Failure to honour private legal obligations	3
Retaliation	1
Sexual exploitation and abuse	2
Theft and misappropriation	21
Unauthorized outside activities and conflict of interest	11
Violation of local laws	1
Procurement irregularities	2
Others	17
Total	**130**

[a] The number of cases referred to the Office by type of misconduct varies considerably from year to year. Therefore, comparative information is not provided. For example, with regard to cases on abuse of authority, harassment and discrimination, for each of the previous five reporting periods ending 30 June, the Office received the following number of referrals: 19 (2016), 5 (2015), 16 (2014), 8 (2013) and 16 (2012).

VI. Possible criminal behaviour

95. In its resolution 59/287, the General Assembly requested the Secretary-General to take action expeditiously in cases of proven misconduct and/or criminal behaviour and to inform Member States about the actions taken. During the

reporting period, 15 cases involving credible allegations of criminal conduct by United Nations officials or experts on mission were referred to Member States.

VII. Conclusion

96. The Secretary-General invites the General Assembly to take note of the present report.